IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No. 689 of 2004
In
SPECIAL CIVIL APPLICATION No. 6457 of 1993
With
LETTERS PATENT APPEAL No. 690 of 2004
In
SPECIAL CIVIL APPLICATION No. 12911 of 1993
With
LETTERS PATENT APPEAL No. 2559 of 2004
In
SPECIAL CIVIL APPLICATION No. 12911 of 1993
with
CIVIL APPLICATION No 1889 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

THE HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BOMIN PVT. LTD - Petitioner(s)

Versus

GUJARAT MAJDOOR PANCHAYAT - Respondent(s)

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Appearance :

MR DF AMIN for Petitioner No(s).: 1.

MR HARSHAD J SHAH for Petitioner No(s).: 1.

MRS SANGEETA N PAHWA for Respondent No(s).: 1.

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CORAM :HONOURABLE MR.JUSTICE R.S.GARG
THE HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date : 23/06/2005

COMMON ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE R.S.GARG)

1. Learned counsel for the parties submit that the parties have settled the three matters on the following terms:-

[1] So far as Special Civil Application No. 12911 of 1993 is concerned, the petitioner shall pay to the workmen, closure compensation to be calculated as directed by the Hon'ble Court in Special Civil Application No. 12911 of 1993. (as per statement `A' annexed with the consent terms). From the amount so calculated the amount of Rs.5,28,544/- shall be deducted from the said amount as already been paid to the workmen earlier. The employer shall pay the balance from the date of this agreement within six months.

[2] On the amount to be paid as aforesaid, the petitioner shall pay to the workmen, interest @ 4.5% from the date of closure i.e. 1.3.1993 till payment. The employer shall pay the amount of interest within 3 months from the date of expiry of aforesaid six months.

[3] The amount of gratuity has already been paid as per Annexure `A' annexed to the consent terms. The

employer-petitioner was of the view that since the dispute regarding payment of gratuity was not raised earlier, the employer was not bound to pay interest on the amount of gratuity. However, application made by the employer before the Controlling Authority disputing the claim of interest on the amount of gratuity has been rejected and appeal preferred from the said order also has been rejected.

[4] That in the aforesaid circumstances, the employer and the workmen have agreed that instead of 10% of interest on the amount of gratuity, 4.5% shall be paid and so calculated the amount of interest comes to Rs. 8.85 lacs.

The employer shall pay the said amount of interest to the workmen (as per statement `A' annexed to the consent terms) within three months from the date of expiry of six months i.e., period agreed for payment of balance amount of closure compensation.

[5] Copy of this settlement shall be produced by the parties before the Controlling Authority/Appellate Authority under the Payment of Gratuity Act with a request to record this settlement.

[6] It is also agreed that the employer shall pay

the amount of compensation for unenjoyed leave to workmen as per statement `B' annexed to the consent terms and shall also pay the amount of Bomin Employees Credit Society Rs. 89,967/- lying with the company to the Credit Society within one year from the date of this settlement.

2. Learned counsel for the parties further submit that in view of this compromise, both the Civil Applications and all the three Letters Patent Appeals shall stand disposed of.

3. Parties submit that if the amount in accordance with consent terms is paid, then that would be the end of the matter, but if the amount as disclosed in this consent terms is not paid within time schedule, then the original order only shall stand revive. Let the consent terms filed by the parties be part of this order. All the three Letters Patent Appeals stand disposed of. Civil Application is also disposed of.

[R.S.GARG, J.]

[RAVI R. TRIPATHI, J.]

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